

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;	)	Civ. No. CV03 00385 SOM-LEK
	)	(Copyright)
Plaintiff,	)	
	)	<b>DECLARATION OF TIMOTHY J.</b>
vs.	)	<b>HOGAN; EXHIBITS "A"- "D"</b>
	)	
HAWAIIAN EXPRESS SERVICE,	)	
INC., a California corporation; et al.	)	
	)	
Defendants.	)	
_____	)	

**DECLARATION OF TIMOTHY J. HOGAN**

I, TIMOTHY J. HOGAN, hereby make the following declaration under penalty of law:

1. I am an attorney with the law firm of Lynch Ichida Thompson Kim & Hirota, which represents Plaintiff in the above-captioned matter.
2. Attached hereto as Exhibit "A" is a true and correct copy of Declaration of Thomas Ueno filed on September 15, 2005 in support of Plaintiff Wayne Berry's Memorandum in Opposition to Defendant PCT's Motion for Partial Summary Judgment on Damages (the "Ueno Dec.") that has been redacted to remove reference to protected materials.

3. Attached hereto as Exhibit "B" is a true and correct copy of an email that I received from Lex Smith in regard to the Guidance Before image materials that was located in the directory "Fleming Computer 05 FHL 150" in the Outlook Express email "\*.dbx" file named "Rates to Merchandising."

4. Attached hereto as Exhibit "C" is a true and correct copy of an excerpt of the Cross-Claim filed by the PCT against Fleming's management, vendors and accountants.

5. Attached hereto as Exhibit "D" is a true and correct copy of an email thread regarding my warning of the PCT's counsel that there turn over of the Guidance materials to their trial expert would be a waiver of attorney-client privilege.

5. Attached hereto as Exhibit "E" is a true and correct copy of an excerpt from the Rule 26(A)(2) Fourth Supplemental Expert Report of Martin Walker PH.D.

DATED: Honolulu, Hawaii,

JAN 3 2006

  
TIMOTHY J. HOGAN